

72-10-407 Permit for new or changed structures or uses -- Nonconforming structures -- Airport hazards -- Application to board of adjustment for variance -- Allowance of variance -- Conditioning permit or variance.

- (1)
- (a) Any airport zoning regulations adopted under this part may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired.
 - (b) All regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit shall be secured from the administrative agency authorized to administer and enforce the regulations, authorizing the replacement, change, or repair.
 - (c) A permit may not be granted that allows the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or when the application for a permit is made.
 - (d) Except as provided in this Subsection (1), all applications for permits shall be granted.
- (2)
- (a) Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use the person's property in violation of airport zoning regulations adopted under this part, may apply to the board of adjustment for a variance from the zoning regulations in question.
 - (b) A variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this part.
 - (c) Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this part.
- (3) In granting any permit or variance under this section, the administrative agency or board of adjustment may, if it considers the action advisable to effectuate the purposes of this part and reasonable in the circumstances, so condition a permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Renumbered and Amended by Chapter 270, 1998 General Session